



## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Board of Dentistry, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation</b>	18VAC60-20-10 et seq.
<b>Regulation title</b>	Regulations Governing the Practice of Dentistry and Dental Hygiene
<b>Action title</b>	Requirements for administration of analgesia and local anesthesia by dental hygienists
<b>Document preparation date</b>	6/9/06

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

The Board intends to comply with a statutory mandate as set forth in Chapter 858 of the 2006 Acts of the Assembly. In its proposed regulatory action, the Board intends to establish the education and training required for a dental hygienist to demonstrate competency in the administration of local anesthesia and nitrous oxide under the direction of a licensed dentist.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of Dentistry the authority to promulgate regulations to administer the regulatory system:

**§ 54.1-2400 -General powers and duties of health regulatory boards**

*The general powers and duties of health regulatory boards shall be:*

...

6. *To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title. ...*

The Dental Practice Act (Chapter 27 of Title 54.1) was amended by Chapter 858 of the 2006 Acts of the Assembly (<http://leg1.state.va.us/cgi-bin/legp504.exe?061+ful+CHAP0858>) as follows: “A dentist may also authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia. In its regulations, the Board of Dentistry shall establish the education and training requirements for dental hygienists to administer such controlled substances under a dentist's direction.”

Therefore, the Board of Dentistry has a statutory mandate to establish education and training requirements for hygienists to administer.

### Substance

*Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.*

The Board is mandated to promulgate regulations establishing the qualifications necessary for a dental hygienist to administer *Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia*. Such qualifications will likely include specific hours of didactic and clinical training, demonstration of clinical skills on patients, and testing of competency. The Board may require submission of evidence of successful completion of competency requirements and may issue a certificate that could be posted to inform the public of the additional credential qualifying a hygienist to administer analgesia and local anesthesia.

The law permits administration of nitrous oxide and local anesthesia by a dental hygienist if authorized by a dentist and only under his direction. “Direction” is already defined in regulations of the Board as “the dentist examines the patient and is present for observation, advice, and control over the performance of dental services,” so regulations will need to be specific about the level of supervision required for such administration.

In addition to establishing requirements for the education and training of dental hygienists, the Board will need to amend existing regulations for the administration of inhalation analgesia and the listing of non-delegable duties, consistent with the amended law. Current regulations for

administration and monitoring by dentists will be appropriately amended to allow hygienists qualified by education and training to also administer and monitor under the same provisions necessary to protect the health and safety of dental patients.

## Alternatives

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.*

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According to the American Dental Hygienists' Association, there are laws and/or regulations permitting dental hygienists to administer local anesthesia in 38 other states. To implement Chapter 858, the Board intends to review educational and training requirements in other states – particularly states in this region of the country. At present, Kentucky, Tennessee, West Virginia and South Carolina have provisions similar to those in Virginia relating to administration of local anesthesia by hygienists.

In Kentucky, regulations require certification to administer infiltration anesthesia and nitrous oxide under the delegation and direct supervision of a dentist. To be eligible for a certificate granted by the Board, hygienists must complete 32 hours of course work in pharmacology, technique, evaluation, complications and contraindications from a dental or hygiene program accredited by the ADA. To demonstrate clinical skills, they also have to complete at least 2 hours in clinical education in administration of nitrous oxide and demonstrate proficiency on at least 2 patients and a minimum of 12 hours in mastery of local anesthesia application with 3 injections in each of the sites. Finally, they have to pass a written examination administered after the coursework and clinical training.

The Board will likely recognize anesthesia certifications from other states if the requirements are equal to or greater than those in Virginia. Tennessee and South Carolina also issues local infiltration anesthesia certifications after successful completion of a board-approved certification course located in dental schools or community colleges; South Carolina only allows dental hygienist to monitor nitrous oxide rather than administer. North Carolina does not permit hygienists to administer nitrous or local anesthesia.

In addition to a review of regulations in these and other states, the Board will receive comment from the Virginia Dental Hygienists Association, the Commonwealth Dental Hygienists Association and the Virginia Dental Association during the development of regulations.

## Family impact

*Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.*

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There is no impact of the proposed regulatory action on the institution of the family and family stability.